

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WILLIAM CALVIN HUNT,

Plaintiff,

No. 17-14095

v.

District Judge Matthew F. Leitman  
Magistrate Judge R. Steven Whalen

WALMART STORE, INC., ET AL.,

Defendants.

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**ORDER GRANTING DEFENDANTS' MOTION TO STRIKE PLAINTIFF'S  
SUR-REPLY**

Plaintiff William Calvin Hunt, a prison inmate in the custody of the Michigan Department of Corrections, has filed a *pro se* civil complaint naming as Defendants Walmart Store, Inc. and two of its employees (the “Walmart Defendants”), as well as Kenneth Toney, a Van Buren Township police officer. Before the Court is Defendant Martez Bostic, Milton O’Neal, and Walmart Store Inc.’s October 24, 2019 motion to strike Plaintiff’s Sur-Reply to their motion for summary judgment [Doc. #37]. ECF No. 51, PageID.708. Defendants note that Plaintiff’s Sur-Reply is not permitted by E.D. Mich. LR 7.1(d)(1) without leave of the Court. “[T]he decision to grant or deny leave to file a sur-reply is committed to the sound discretion of the court,” *Mohlman v. Deutsche Bank National Trust Company*, 2015 WL 13390184, at \*1 (E.D. Mich. September 4, 2015)(Stafford, M.J.)(citing *Soc’y of St. Vincent De Paul in the Archdiocese of Detroit v. Am. Textile Recycling Services*, 2014 WL 65230, at \*3 (E.D. Mich. Jan. 8, 2014) )(Hood, J.)(citations omitted).

The procedural history of the current motion is somewhat garbled. Plaintiff failed to file an original response to present Defendants' Motion for Summary Judgment, but did respond to co-Defendant Toney's summary judgment motion [Doc. #36, 45]. In the absence of a response to present Defendants' Motion, they filed a timely Reply addressing the arguments made in response to Defendant Toney's summary judgment motion [Doc. #48]. Despite Plaintiff's failure to file an original response to present Defendants' Motion, his Sur-Reply makes clear that it was done in response to both Defendant Toney's reply *and* present Defendants' Reply [Doc. #47-48]. ECF No. 50, PageID.692. Thus, Plaintiff not only failed to comply with this Court's order to file a response to present Defendants' Motion for Summary Judgment by September 6, 2019 [Doc. #40], he filed a Sur-Reply without first obtaining leave of the Court. Therefore, present Defendants' motion to strike his Sur-Reply will be granted.

If Plaintiff, proceeding *pro se*, wishes to respond further to the arguments made in present Defendants' Summary Judgment Motion, must first provide an explanation for failing to make a timely original response to the motion.

Accordingly, Defendants' motion to strike Plaintiff's sur-reply [Doc. #51] is GRANTED.

IT IS SO ORDERED.

Dated: November 7, 2019

s/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify on November 7, 2019 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants November 7, 2019.

s/Carolyn M. Ciesla  
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Case Manager for the  
Honorable R. Steven Whalen